

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

KOBRE & KIM LLP,

Plaintiff,

- v. -

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Case No. 19-cv-10151 (LAK) (OTW)

**DECLARATION OF BENJAMIN J.A. SAUTER IN OPPOSITION TO DEFENDANT’S
MOTION FOR SUMMARY JUDGEMENT AND IN SUPPORT OF PLAINTIFF’S
CROSS-MOTION FOR SUMMARY JUDGEMENT**

Pursuant to 28 U.S.C. § 1746, I, Benjamin J.A. Sauter, hereby declare:

1. I am a Partner at Kobre & Kim LLP and am counsel for Plaintiff Kobre & Kim in the above-captioned matter. I am submitting this declaration in support of Kobre & Kim’s Cross-Motion for Summary Judgement.

2. Attached hereto as **Exhibit A** is a true and correct copy of the March 22, 2019 *Commodity Futures Trading Comm’n v. Kraft Foods Grp., Inc.* settlement conference transcript. See Hearing Transcript, *Kraft*, Case No. 15-cv-2881, Dkt. No. 303 (N.D. Ill. Apr. 8, 2019). The transcript was included on the public record in *In the matter of Commodity Futures Trading Comm’n*. See *In the matter of Commodity Futures Trading Comm’n*, Case No. 19-2769, Dkt. No. 2 at 70 (7th Cir. Sept. 13, 2019).

3. Attached hereto as **Exhibit B** is a true and correct copy of the August 15, 2019 Press Release titled “Statement of Commissioners Dan M. Berkovitz and Rostin Behnam

Regarding the Commission's Settlement with Kraft Foods Group, Inc. and Mondelēz Global LLC."

4. Attached hereto as **Exhibit C** is a true and correct copy of the August 15, 2019 Press Release titled "Statement of the Commission."

5. Attached hereto as **Exhibit D** is a true and correct copy of the August 15, 2019 Press Release titled "Kraft and Mondelēz Global to Pay \$16 Million in Wheat Manipulation Case."

6. Attached hereto as **Exhibit E** is a true and correct copy of Plaintiff's FOIA Request to the CFTC and accompanying Federal Express delivery confirmation.

7. Attached hereto as **Exhibit F** is a true and correct copy of an email exchange between Leanne Bortner of Kobre & Kim and Assistant United States Attorney Rachael Doud dated December 19, 2019 to January 15, 2020.

8. Attached hereto as **Exhibit G** is a true and correct copy of Kobre-Kim-CFTC-0002191, as it was produced by the CFTC to Kobre & Kim.

9. Attached hereto as **Exhibit H** is a list of CFTC records responsive to Kobre & Kim's FOIA Requests for which Kobre & Kim challenges the CFTC's withholdings. The list, which is not an exhaustive list of all potentially appropriate challenges to the CFTC's withholdings but is provided here by way of example as discussed in Kobre & Kim's Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment and in Support of Plaintiff's Cross-Motion for Summary Judgment, includes Office of Public Affairs communications, draft press releases, and discussions regarding the messaging of the *Kraft* settlement.

Executed on November 18, 2020, in New York, New York.

/s/ Benjamin J.A. Sauter
Benjamin J.A. Sauter

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